



Jersey

## PROBATE (AMENDMENT) (JERSEY) LAW 2023

### Contents

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#### Article

1	Probate (Jersey) Law 1998 amended .....	2
2	Article 1 (interpretation) amended .....	2
3	Article 11 (grant to a trust corporation) amended .....	2
4	Article 19 (necessity for production of grant) amended .....	3
5	Article 21 (protection for person releasing movable estate without grant) amended .	5
6	Article 23 (penalty for intermeddling) amended .....	5
7	Article 31 (Regulations) substituted .....	6
8	Articles 32A, 32B and 32C inserted .....	6
9	Citation and commencement .....	7



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## PROBATE (AMENDMENT) (JERSEY) LAW 2023

A LAW to amend the [Probate \(Jersey\) Law 1998](#).

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<i>Adopted by the States</i>	<i>23rd May 2023</i>
<i>Sanctioned by Order of His Majesty in Council</i>	<i>11th October 2023</i>
<i>Registered by the Royal Court</i>	<i>20th October 2023</i>
<i>Coming into force</i>	<i>27th October 2023</i>

**THE STATES**, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following Law –

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### 1 [Probate \(Jersey\) Law 1998](#) amended

This Law amends the [Probate \(Jersey\) Law 1998](#).

### 2 Article 1 (interpretation) amended

In Article 1(1) –

- (a) after the definition “Court” there is inserted –  
“ “designated” means designated by Order of the Minister;”;
- (b) after the definition “executor nominate” there is inserted –  
“ “funeral director” means a person in Jersey having charge of the burial or cremation of a deceased person;”;
- (c) after the definition “grant” there is inserted –  
“ “holder” means a person in Jersey who holds any movable estate of a deceased person;”;
- (d) after the definition “Inferior Number” there is inserted –  
“ “Minister” means the Minister for Health and Social Services;”.

### 3 Article 11 (grant to a trust corporation) amended

After Article 11(3) there is inserted –

- “(3A) Probate or administration is not to be granted to an association or company other than a trust corporation.”.

#### 4 Article 19 (necessity for production of grant) amended

For Article 19 there is substituted –

##### **“19 Necessity for production of grant**

Subject to Articles 19A to 19E, and except as otherwise provided by any other enactment, the production of a grant is necessary to establish the right to recover or receive any part of the movable estate situated in Jersey of a deceased person.

##### **19A Exception for small estates**

- (1) A holder may release movable estate to a person (the “applicant”), without the production of a grant if the conditions in paragraph (2) are met and either –
  - (a) the deceased person dies domiciled other than in Jersey and the gross value of that person’s movable estate in Jersey held by the holder does not exceed £30,000; or
  - (b) the deceased person dies domiciled in Jersey, and –
    - (i) the gross value of the deceased person’s movable estate in Jersey held by the holder does not exceed £30,000, and
    - (ii) the applicant declares that the gross value of the deceased person’s worldwide movable estate does not exceed £30,000.
- (2) The conditions are –
  - (a) the applicant acknowledges in writing that the holder is not liable to any other beneficiary of the deceased person’s estate for the movable estate that is released to the applicant;
  - (b) it appears to the holder that the applicant is entitled to receive the movable estate under the terms of the deceased person’s will or under the laws relating to intestate succession in force in the place in which the deceased person was domiciled at death; and
  - (c) there is no caveat in force in respect of the deceased person’s estate.

##### **19B Exception for particular holders of movable estate**

- (1) The Minister may designate types of holder who may release movable estate without the production of a grant (“particular holders”).
- (2) A person applying to a particular holder (the “applicant”) must use an application form containing the designated information.
- (3) A particular holder must not release the estate to the applicant unless –
  - (a) it appears to the particular holder that the value of the movable estate held by the particular holder does not exceed £30,000;
  - (b) the applicant declares that the gross value of the deceased person’s worldwide movable estate does not exceed £30,000;
  - (c) it appears to the particular holder that the applicant is entitled to receive the movable estate under the terms of the deceased person’s will or under the laws relating to intestate succession in force in the place in which the deceased person was domiciled at death;

- (d) the applicant meets any other designated requirement found in the application form;
- (e) the applicant acknowledges in writing that the particular holder is not liable to any other beneficiary of the deceased person's estate for the movable estate that is released to the applicant; and
- (f) there is no caveat in force in respect of the deceased person's estate.

### **19C Exception in respect of items worn by deceased person**

- (1) This Article applies –
  - (a) to a funeral director; and
  - (b) with respect to an item of the deceased person's movable estate situate in Jersey that was on or with, or worn by, the deceased person at the time of that person's death (an "item").
- (2) A funeral director may, without production of a grant, authorise that a deceased person may be buried or cremated with an item if it appears to the funeral director that the value of the item does not exceed £1,000.
- (3) A funeral director may, on receipt of an application containing the designated information, release an item to a person (the "applicant") without the production of a grant if –
  - (a) the item is to be buried or cremated with the deceased person;
  - (b) it appears to the funeral director that the applicant is entitled to receive the item under the terms of the deceased person's will or under the laws relating to intestate succession in force in the place in which the deceased person was domiciled at death;
  - (c) it appears to the funeral director that the value of the item does not exceed £10,000;
  - (d) the applicant meets any other designated requirement contained in the application form;
  - (e) the applicant acknowledges in writing that the funeral director is not liable to any other beneficiary of the deceased person's estate for the item; and
  - (f) there is no caveat in force in respect of the deceased person's estate.

### **19D Exception for Viscount acting as court-appointed delegate**

- (1) This Article applies if, at the time of death, the Viscount is appointed under Part 4 of the [Capacity and Self-Determination \(Jersey\) Law 2016](#) as delegate for the deceased person in respect of that person's property and affairs.
- (2) If, at the time of death, the Viscount is the holder of the whole or a part of the deceased person's estate the Viscount may, without producing a grant, release that estate if –
  - (a) the Viscount is satisfied that the gross value of the deceased person's worldwide movable estate does not exceed £30,000; and
  - (b) the estate is released in order to –
    - (i) pay to a funeral director the amount of any outstanding bill in relation to the funeral of the deceased person,

- (ii) pay to an approved care home (as defined in Article 6 of the [Long-Term Care \(Jersey\) Law 2012](#)) the amount of any outstanding care home fees in respect of the deceased person,
  - (iii) pay any other outstanding bills of the deceased for which the Viscount considers payment should properly be made, or
  - (iv) repay to the relevant provider any overpayment of benefits or pension made in respect of the deceased person.
- (3) In this Article, “bill” means a properly invoiced outstanding sum.

#### **19E Exception for bona vacantia**

A holder may release movable estate to the Receiver-General without the production of a grant if the holder, despite reasonable effort, cannot identify a person to whom the movable estate should be released under the terms of the deceased person’s will or the laws relating to intestate succession in the country in which the deceased was domiciled at death.

#### **19F Offence for false statement**

A person who, in an application under Article 19A, 19B or 19C or in connection with such an application, makes a statement which that person knows or believes to be false in any material particular commits an offence and is liable to imprisonment for a term of 12 months and to a fine.”.

### **5 Article 21 (protection for person releasing movable estate without grant) amended**

For Article 21 there is substituted –

#### **“21 Protection for person releasing movable estate without grant**

- (1) A holder who, in good faith and in accordance with any of Articles 19A to 19E, releases any movable estate of a deceased person is, in respect of that release, protected and saved harmless from any action brought on behalf of the estate of the deceased person or by any beneficiary of the estate.
- (2) Where a holder relies on paragraph (1), the holder must provide details and an explanation of the actions relating to the release of the movable estate to the person bringing the action if that person demands them.
- (3) Nothing in this Article limits any liability on a holder under any other enactment or customary law.”.

### **6 Article 23 (penalty for intermeddling) amended**

In Article 23(1) –

- (a) in the heading, for “Penalty for” there is substituted “Offence of”;
- (b) for “Article 19(3)” there is substituted “any of Articles 19A to 19E”;

- (c) for “to a fine or to imprisonment for a term not exceeding 12 months or to both” there is substituted “to a fine and to imprisonment for a term of 12 months”.

## **7 Article 31 (Regulations) substituted**

For Article 31 there is substituted –

### **“31 Regulations**

- (1) The States may by Regulations specify anything which must or may be specified for the purposes of this Law.
- (2) The States may by Regulations amend any provision, other than this paragraph, of this Law, to repeal that provision or to make alternative or additional provision in relation to grants of probate and letters of administration, the administration and distribution of the estate of deceased persons, and related matters.”.

## **8 Articles 32A, 32B and 32C inserted**

After Article 32 there is inserted –

### **“32A Orders**

The Minister may by Order –

- (a) amend the monetary values in Articles 19A(1), 19B(3), 19C(2) or (3) or 19D(2); and
- (b) designate anything which must or may be designated for the purposes of this Law.

### **32B Application to the Crown**

- (1) This Law binds the Crown, except as provided in this Article.
- (2) Nothing in this Law prevents the Receiver-General from receiving and holding any unclaimed movable estate without a grant in accordance with law or custom.
- (3) Articles 19F and 23 do not apply to the Crown, but do apply to persons in service to the Crown.
- (4) This Law does not apply to His Majesty in his private capacity.

### **32C Transitional provision**

- (1) In this Article –
  - (a) “commencement date” means the date of commencement of the first Order made under Article 19B(1);
  - (b) “particular holder” means a holder designated by Order.

- (2) If, on the commencement date, a particular holder holds estate of a deceased person whose date of death was within the 10 years immediately preceding the commencement date, Article 19B applies as though it came into force on the date of death.”.

## **9 Citation and commencement**

This Law may be cited as the Probate (Amendment) (Jersey) Law 2023 and comes into force 7 days after it is registered.